

**THIS OPINION WAS NOT WRITTEN FOR PUBLICATION**

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper 45

Filed by: Trial Section Merits Panel  
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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ANDREW L. SALZMAN, MITCHELL P. FINK and JEFFREY B. KANE,

Junior Party,  
(Patent 5,423,320)  
(Reissue application 08/874,377)

v.

BORJE RANTALA,

Senior Party  
(Application 08/547,044).

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Patent Interference No. 104,064

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Before: McKELVEY, Senior Administrative Patent Judge, and  
SCHAFFER and LEE, Administrative Patent Judges.

PER CURIAM

**JUDGMENT PURSUANT TO 37 CFR § 1.662**

Upon consideration of the ORDER entered 24 February 1999, requiring an election (Paper 43) and THE COMMON ASSIGNEE'S NOTICE OF ELECTION, electing Rantala (Paper 44), and treating the NOTICE OF ELECTION as a request for entry of an adverse judgment against Salzman, it is

ORDERED that judgment on priority as to Count 2, the sole count in the interference, is awarded against junior party ANDREW L. SALZMAN, MITCHELL P. FINK and JEFFREY B. KANE.

FURTHER ORDERED that judgment on priority as to Count 2 is awarded in favor of senior party BORJE RANTALA.

FURTHER ORDERED that, on the record before the Board of Patent Appeals and Interferences, senior party BORJE RANTALA is entitled to a patent containing claims 27-28 (corresponding to Count 2) of Application 08/547,044, filed October 23, 1995.

FURTHER ORDERED that junior party ANDREW L. SALZMAN, MITCHELL P. FINK and JEFFREY B. KANE is not entitled to a patent containing claims 13-16 (corresponding to Count 2) of U.S. Patent 5,423,320, granted June 13, 1995, based on application 08/049,549, filed April 20, 1993.

FURTHER ORDERED that if there is a settlement agreement and it has not already been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

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FRED E. McKELVEY, Senior	)	
Administrative Patent Judge	)	
	)	
	)	
_____	)	
RICHARD E. SCHAFER	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
_____	)	
JAMESON LEE	)	
Administrative Patent Judge	)	

cc (via First Class Mail):

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a majority interest in Argus  
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